

United States District Court

EASTERN DISTRICT OF WISCONSIN

JUDGMENT IN A CIVIL CASE

**WAYNE STEVENSON, GAYLE STEVENSON,
LARRY HOLZMILLER, JUDITH HOLZMILLER,
RANDALL JACOBSON, MARGARET C. JACOBSON,
RONALD LONSCAR, JAMES L. MANTZ,
DIANE L. MANTZ, STAN R. MATTSON,
JANICE L. MATTSON, DAN SHILLINGLAW,
MARGARET R. SHILLINGLAW, DOUGLAS TETTING,
TERRENCE P. VOGL, JEAN VOGL,
JEFFREY J. WEIDE, MARY LINDA WEIDE,
ROGER WILLMS, LINDA T. WILLMS,
EUGENE ZIAREK, EILEEN ZIAREK,**

Plaintiffs,

V.

CASE NUMBER: **02-C-530**

**MILWAUKEE FORGE,
MILWAUKEE FORGE HEALTH PLAN, and
MILWAUKEE FORGE EARLY RETIREMENT INCENTIVE PLAN,**

Defendants.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came on for consideration and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the defendants' Motion to Dismiss and for Summary Judgment that the plaintiffs' state law claims are pre-empted by the Employment Retirement Insurance Security Act (ERISA) and that they are entitled to judgment as a matter of law on the remaining non-preempted claims is granted-in-part and denied-in-part.

The plaintiffs' state law causes of action for breach of contract, misrepresentation, and breach of fiduciary duty, and their claim for punitive damages, are preempted by ERISA and are dismissed.

Defendant Milwaukee Forge Early Retirement Incentive Plan is dismissed as a defendant on the grounds that it is not an entity capable of being sued under ERISA.

Plaintiffs' claim pursuant to ERISA § 502(a)(1)(B), 29 U.S.C. § 1132 for declaration and enforcement of rights under the health plan pursuant to ERISA is granted. The plaintiffs have a guaranteed right to payment of premiums by Milwaukee Forge for their health and dental coverages. The Milwaukee Forge's failure to pay the premiums was a violation under ERISA and the Early Retirement Incentive Plan (ERIP) contract.

Milwaukee Forge's failure to pay the promised premiums resulted in the assumption of costs by the plaintiffs that should have been paid by Milwaukee Forge pursuant to the ERIP contract.

Damages are awarded in favor of the plaintiffs as follows:

Wayne and Gayle Stevenson	\$6,688.76
Larry and Judy Holzmiller	\$4,781.73
Randall and Margaret Jacobson	\$6,484.08
Ronald Lonscar	\$1,774.18
Stan and Janice Mattson	\$6,484.08
Daniel and Margaret Shillinglaw	\$10,622.76
Douglas Tetting	\$3,274.36
Terrence and Jean Vogl	\$5,292.76
Roger and Linda Willms	\$10,661.08
Jeffrey and Mary Weide	\$10,888.76
Eugene and Eileen Ziarek	\$6,484.08

Milwaukee Forge and Milwaukee Forge Health Plan are hereby ENJOINED and barred from requiring the plaintiffs to pay any portion of the premiums for the group hospital, surgical, and dental insurance sponsored by the defendants for the plaintiffs, and Milwaukee Forge is required to continue to pay the entirety of the premiums for the group hospital, surgical, and dental insurance sponsored by the defendants for the plaintiffs until each plaintiff becomes eligible for Medicare.

The plaintiff shall submit any briefing requesting attorney's fees and costs no later than September 18, 2006.

This action is hereby DISMISSED.

August 18, 2006
Date

SOFRON B. NEDILSKY
Clerk

s/Linda M. Zik
(By) Deputy Clerk

Approved as to form:

s/ Rudolph T. Randa
Hon. Rudolph T. Randa
Chief Judge

August 18, 2006
Date